



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: AA/07348/2013

THE IMMIGRATION ACTS

**Heard at Glasgow
On 27 October 2015**

**Decision & Reasons Promulgated
On 29 October 2015**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

KHODADAD HASANZADA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs J Moore, of Drummond Miller, Solicitors

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. By decision dated 4 August 2015, the Vice President of the Upper Tribunal granted permission to appeal against a determination by First-tier Tribunal Judge Boyd, dated 23 June 2014, dismissing the appellant's appeal against refusal of asylum.
2. Mrs O'Brien for the respondent conceded that in the light of the opinion by Lord Malcolm, [2014] CSOH 97, and of a joint minute between the parties resolving proceedings in the Court of Session, error of law was not only arguable but was established. Parties agreed that the appropriate

outcome would be a rehearing in the First-tier Tribunal. (Copies of the opinion and joint minute were not before the Upper Tribunal at the hearing, but are attached to a letter from the appellant's solicitors, dated 26 October 2015, which is now on the file.)

3. Evidence which the First-tier Tribunal overlooked is to be found in the appellant's bundle provided to the First-tier Tribunal, second inventory, item 13 at pages 84-91. The judge referred to the evidence at item 6 of that bundle, but not item 13.
4. The respondent's refusal letter rejects the appellant's claim even "taken at highest" on the basis of internal relocation, and also under the heading of sufficiency of protection (paragraphs 81-100, 101-136, and summarised at paragraph 137). Mrs Moore acknowledged that the appellant's grounds of appeal at paragraph 15 are inaccurate in saying that the judge was correct not to find internal relocation available. The judge did make a finding that internal relocation was available, although briefly, at paragraph 42. Mrs O'Brien said that she was unable to submit that the determination should be sustained on that basis. However, these issues should not be lost sight of in remaking the decision.
5. The decision of the First-tier Tribunal errs in law, as referred to above, and as conceded. It is **set aside**. No findings are to stand. Under section 12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to **remit the case to the First-tier Tribunal**. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge Boyd.
6. No anonymity direction has been requested or made.



Upper Tribunal Judge Macleman

27 October 2015